



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: December 22, 2006
Comment Deadline: January 22, 2007
Corps Action ID #: 2006-41710-381

The Wilmington District, Corps of Engineers (Corps) has received an application from Vista Developers, LLC, represented by Mr. Stig Wennerstrom, seeking Department of the Army authorization to impact waters of the United States in order to construct a 7.45-acre lake within the Bill's Mountain residential development in Rutherford County, North Carolina. This proposal would impact 2,565 linear feet of perennial and intermittent unnamed tributaries to the Broad River for lake construction.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at www.saw.usace.army.mil/wetlands

Applicant: Vista Developers, LLC
Attention: Mr. Stig Wennerstrom
525 N. Main Street
Hendersonville, North Carolina 28792

Agent: Wetland and Natural Resource Consultants
Attention: Mr. Neill Yelverton
Post Office Box 882
Canton, North Carolina 28716

Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of Section 404 of the Clean Water Act (33 U.S.C. 1344).

Location

The project site is located on the 769-acre Bill's Mountain residential development at latitude 35.4374 north and longitude 82.1428 west. The development is located on the east side of Bills Creek Road in Rutherford County, North Carolina.

Existing Site Conditions

The land use in the surrounding area is primarily forestry and agriculture with some residential development. The land use on the project site was historically forestry and is currently forested with mixed mesic hardwoods and rich cove rhododendron thickets. The site contains perennial and intermittent streams that are unnamed tributaries to Bills Creek, Cove Creek, and the Broad River. These are all “Class C” waters in the Broad River Basin.

The streams proposed for impact are unnamed perennial and intermittent tributaries to the Broad River and have been classified in accordance with the NC DWQ Stream Identification Form Version 3.1. The proposed lake has approximately 176 acres of drainage measured at the proposed dam site. The NC Division of Water Quality has classified this section of the Broad River as a “Class C” water.

Applicant’s Stated Purpose

To provide a recreational and aesthetic lake for a residential development.

Project Description

The project consists of constructing a 7.45-acre lake within a 769-acre residential development. The applicant is seeking authorization to impact 2,565 linear feet of Class “C” perennial and intermittent unnamed tributaries to the Broad River. Development of the site would require clearing the proposed lake bed, grading the proposed dam site, filling to impound the stream, and flooding. Heavy equipment, including graders, pan scrapers, excavators, bull dozers, etc., would be used for the construction of the project.

Overall, the proposed impacts are as follows:

- 243 cubic yards of fill will be discharged into waters for the dam
- 537 linear feet of direct impacts for dam structure
- 2,028 linear feet of indirect impacts for flooding

During construction of the dam, the subject channel would be diverted while the fill is discharged into the stream to prevent contact between the fill and the water. The top width of the dam is proposed to be 20 feet and the side slope is proposed to be 3:1. The proposed permanent impacts to stream channels resulting from the placement of fill material associated with the dam totals 537 linear feet, or 0.087 acre of stream surface area. The proposed impacts resulting from flooding streams total 2,028 linear feet, or 0.22 acre of stream surface area.

Conceptual plans include stocking the lake with game fish (rainbow, brown, and brook trout) and providing habitat for migratory waterfowl (wood duck). The lake would be constructed with littoral areas and thereby provide diverse habitat for terrestrial and semi-aquatic wildlife. Fisheries habitat structures would be created for game fish. The outlet of the lake would utilize low-flow cold water design strategies to create suitable downstream habitat for fish as well. Littoral benches would be field designed and constructed along the shore of the reach due to the steepness of the valley.

The applicant proposes to use the 2:1 Compensatory Mitigation Ratio set forth in the Corps Stream Mitigation Guidelines. As such, the applicant proposes to mitigate for permanent impacts at a 2:1 ratio with a multiplier of 1, which equates to 1,074 linear feet of restoration for 537 linear feet of impact. This mitigation would be pursued through the NC Ecosystem Enhancement Program's in-lieu fee program. The mitigation for flooding would be accessed at a 2:1 ratio with a multiplier of 2.5, for a final ratio of 5:1. The proposal to address these impacts would be to preserve 10,140 linear feet of on-site stream channel to mitigate for 2,028 linear feet of flooding impacts. This on-site preservation would include a 30' vegetated buffer adjacent to the channels which would be preserved through deed restrictions.

There are no proposed impacts to wetlands resulting from construction of the lake.

Two previous Nationwide Permits (NWP) (file number 200630549) have been issued on this project site for impacts associated with the construction of a road network (February and June 2006).

Other Required Authorizations

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice combined with appropriate application fee at the North Carolina Division of Water Quality central office in Raleigh will constitute initial receipt of an application for a 401 Water Quality Certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention: Ms Cyndi Karoly by January 22, 2007.

Essential Fish Habitat

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that the proposed project will not adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

Cultural Resources

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

Endangered Species

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. A final determination on the effects of the proposed project will be made upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service."

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

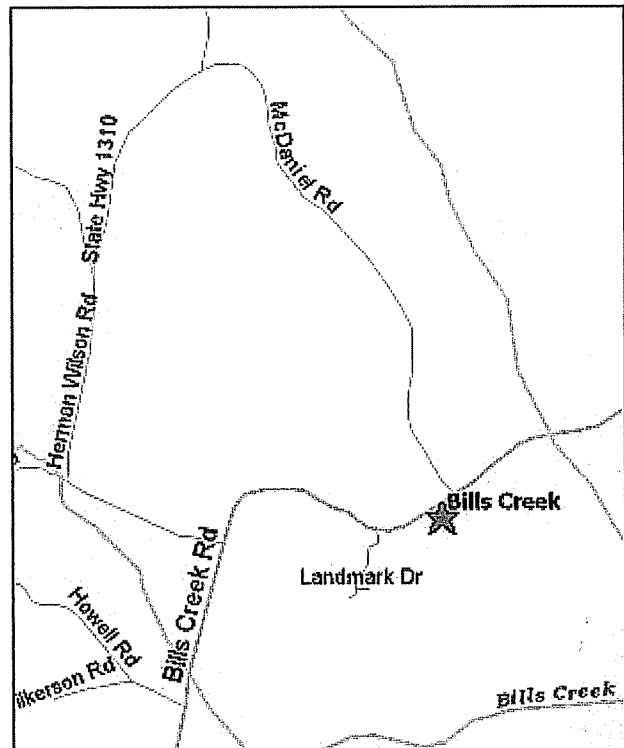
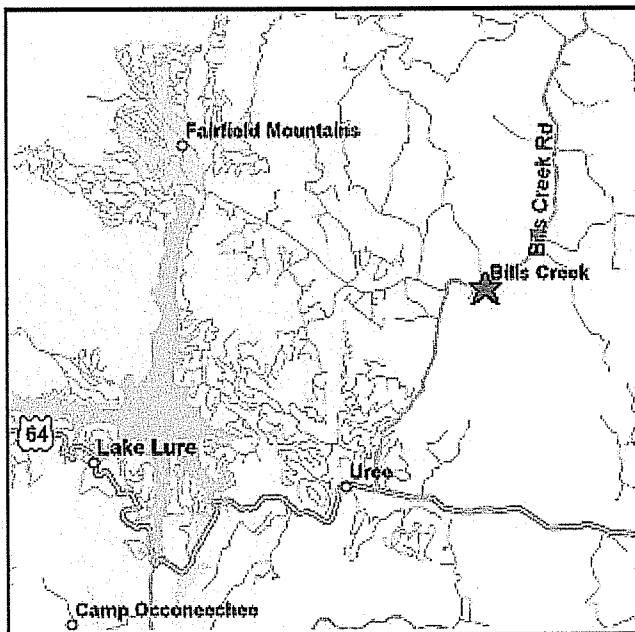
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidate State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an

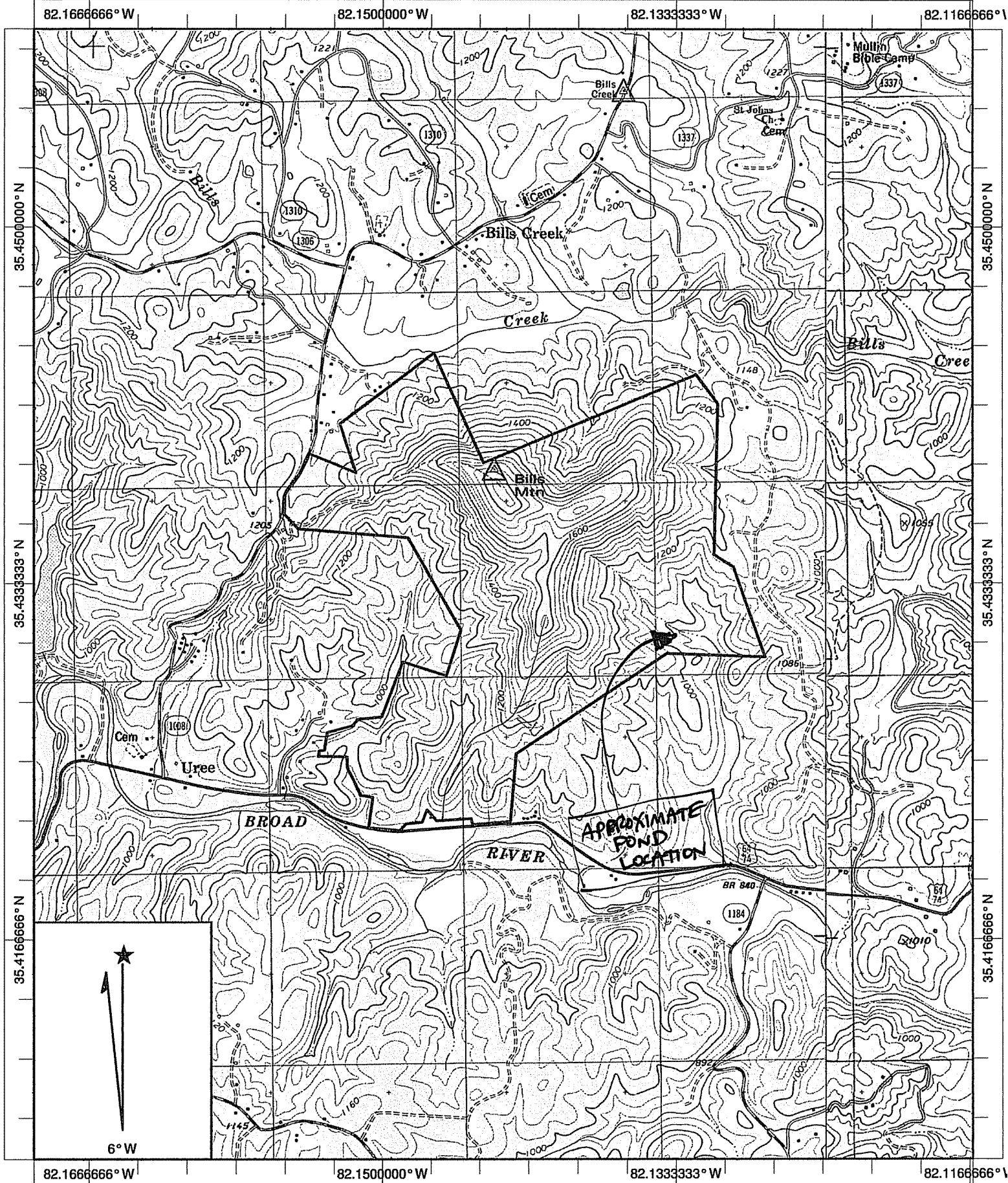
Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, January 22, 2007. Comments should be submitted to Ms. Lori Beckwith, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina, 28801-5006.

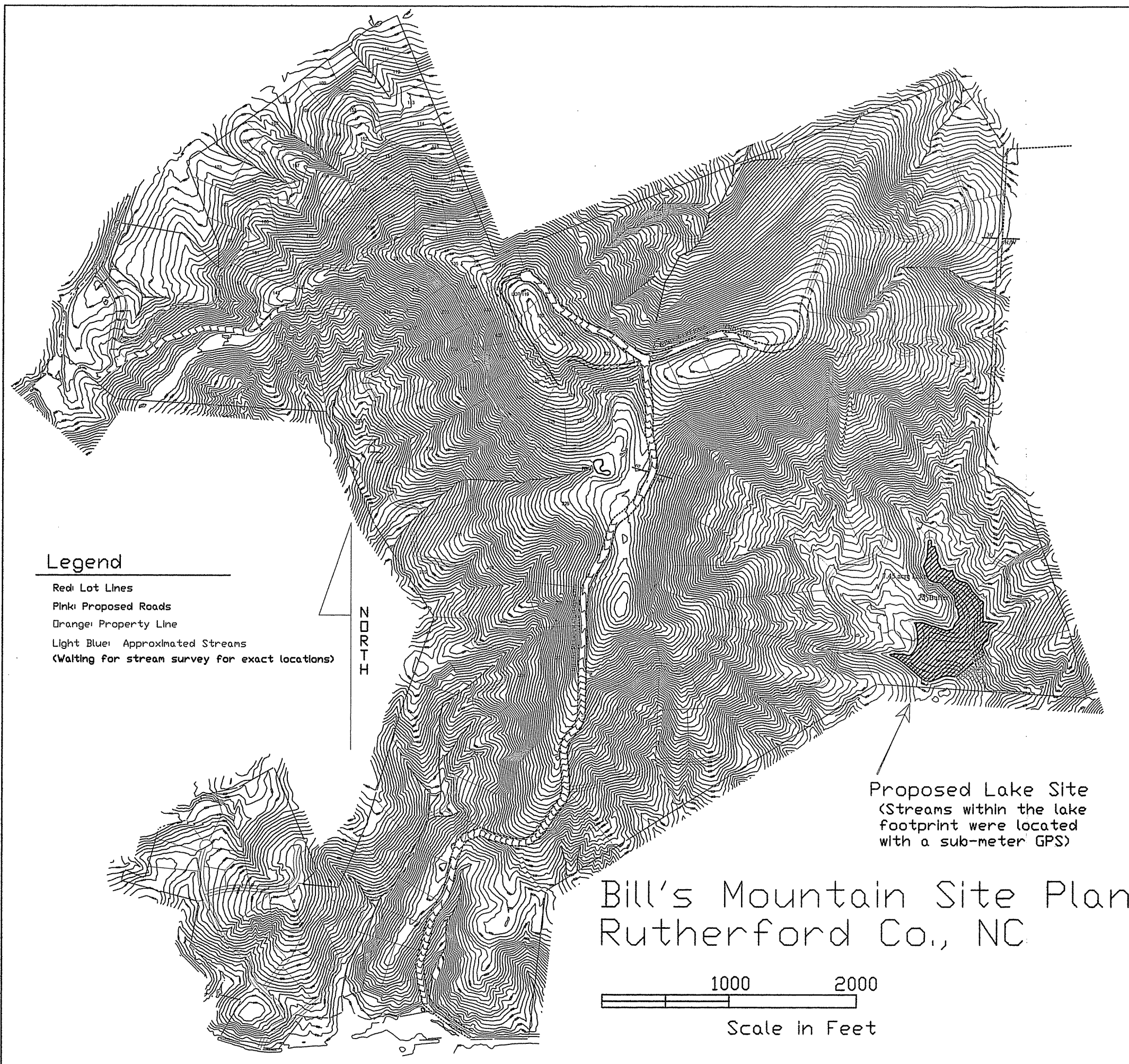
Bills Mountain Rutherford CO



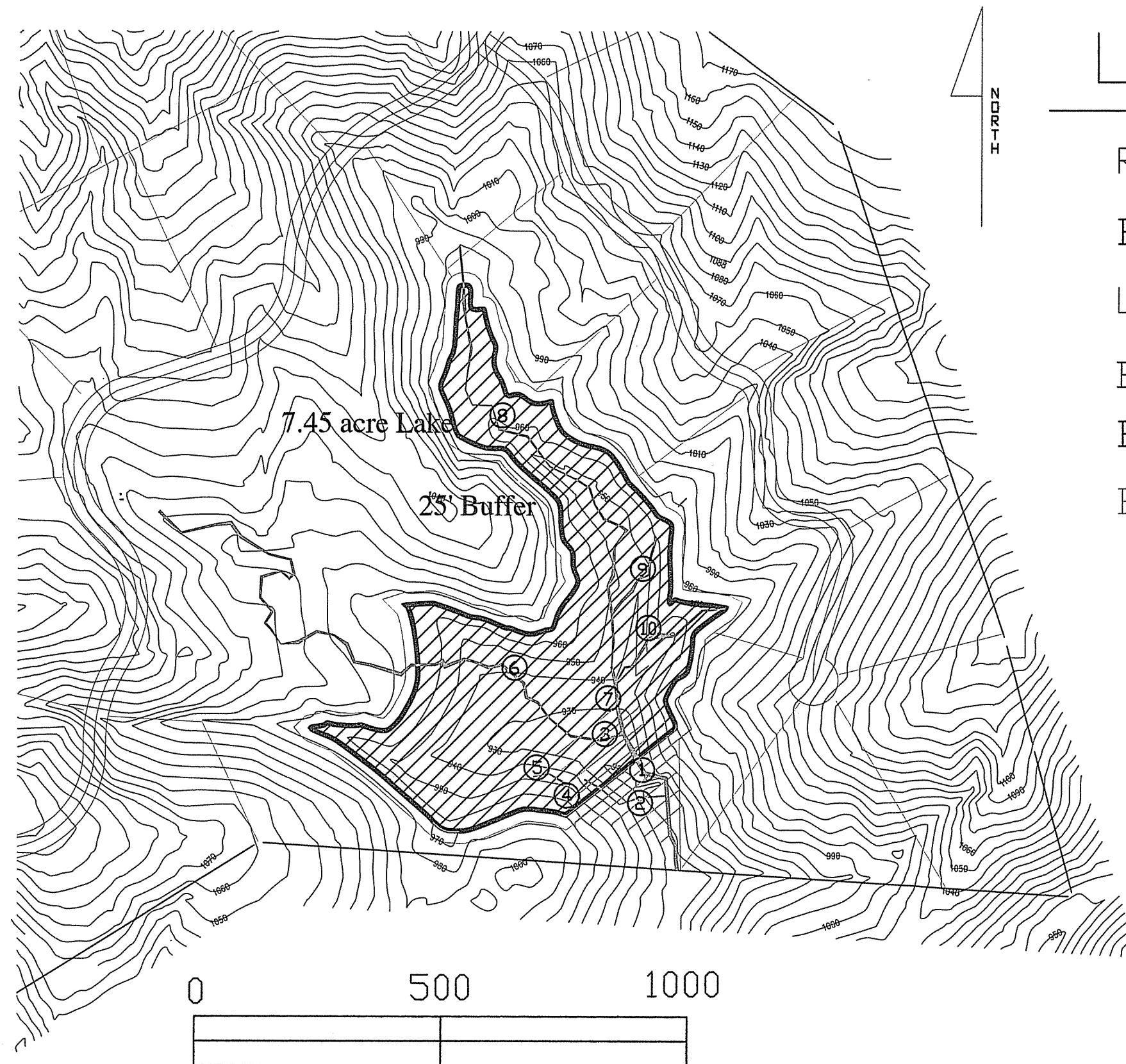


Name: LAKE LURE
 Date: 3/9/2006
 Scale: 1 inch equals 2000 feet

Location: 035.4328576° N 082.1431631° W
 Caption: Vista Developers - Bill's Mountain



Bill's Mountain Proposed Lake



Legend

- Red: Lot Line & Property Line
- Black: Proposed Roads
- Light Blue: Streams
- Blue: Proposed Pond
- Black: Stream Impact Locations
- Brown: Dam

Scale in Feet